

February 10, 2005

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 10th day of February 2005, at 8:00 P.M., and there were

PRESENT: JEFFREY LEHRBACH, CHAIRMAN
 JOHN ABRAHAM, JR. MEMBER
 ANTHONY ESPOSITO, MEMBER
 WILLIAM MARYNIEWSKI, MEMBER
 RICHARD QUINN, MEMBER
 ARLIE SCHWAN, MEMBER
 ROBERT THILL, MEMBER

ABSENT: NONE

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 GEORGE PEASE, ASSISTANT BUILDING INSPECTOR
 RICHARD SHERWOOD, TOWN ATTORNEY

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF LINDA IRWIN:

THE 1ST CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Linda Irwin, 1396 Ransom Road, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a private stable on premises owned by the petitioner at 1396 Ransom Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9B(1)(b) of the Code of the Town of Lancaster. The proposed stable will result in a fifty foot [50'] lot line set back.

Chapter 50, Zoning, Section 9B(1)(b) of the Code of the Town of Lancaster requires a one hundred foot [100'] lot line set back. The petitioner, therefore, requests a fifty foot [50'] lot line set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Clarence and National Fuel Gas Distribution Corporation of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Linda Irwin, petitioner
1396 Ransom Road
Lancaster, New York 14086

Proponent

IN THE MATTER OF THE PETITION OF LINDA IRWIN

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, WHO MOVED ITS
ADOPTION, SECONDED BY MR. QUINN
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Linda Irwin and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of February 2005, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Agricultural Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Agricultural Residential District, (AR) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been reviewed and determined to be of local concern."

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the New York State Thruway (an interstate highway) is in close proximity to the subject property.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the topography makes it impractical to move the structure further from the lot line.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

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PETITION OF REBECCA ANDERSON:

THE 2ND CASE TO BE CONSIDERED BY THE Zoning Board of Appeals was that of the adjourned petition of Rebecca Anderson, 493 Lake Avenue, Lancaster, New York for one [1] variance for the purpose of permitting a fence to remain as positioned on premises owned by the petitioner at 493 Lake Avenue, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35A. of the Code of the Town of Lancaster. The height of the fence along the north side yard property line ranges from six feet two inches [6',2"] to six feet nine inches [6',9"].

Chapter 50, Zoning, Section 35A of the Code of the Town of Lancaster limits the height of a fence in a residential district rear side yard to six feet [6'] in height. The petitioner, therefore, requests a variance of nine inches [9"].

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Rebecca Anderson, petitioner
493 Lake Avenue
Lancaster, New York 14086

Proponent

Jeffrey Markello, attorney representing Sandra Kappan
Sakowski & Markello, LLP
6890 Seneca Street
Elma, New York 14059-0200

Opponent

Sandra Kappan
479 Lake Avenue
Lancaster, New York 14086

Opponent

IN THE MATTER OF THE PETITION OF REBECCA ANDERSON

THE FOLLOWING MOTION WAS MADE
BY MR. THILL, SECONDED BY
MR. LEHRBACH TO WIT:

To close hearing to any further testimony and evidence and thereby reserving decision.

The motion was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. ESPOSITO	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The motion was thereupon **CARRIED**

THE FOLLOWING MOTION WAS MADE
BY MR. THILL, SECONDED BY
MR. ABRAHAM TO WIT:

To render a findings statement and determination within sixty days.

The motion was duly put to a vote on roll call which resulted as follows:

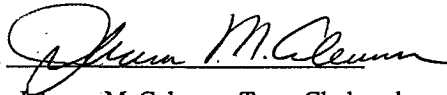
MR. ABRAHAM	VOTED YES
MR. ESPOSITO	VOTED NO
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The motion was thereupon **CARRIED**

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ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was
adjourned at 9:15 P.M.

Signed

A handwritten signature in cursive script, appearing to read "Johanna M. Coleman", written over a horizontal line.

Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: February 10, 2005